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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,968	07/11/2003	Keiji Ohama	0020-5156P	2867
2292	7590	06/28/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			GORDON, RAEANN	
PO BOX 747				
FALLS CHURCH, VA 22040-0747			ART UNIT	PAPER NUMBER
3711				

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/616,968	OHAMA ET AL.
	Examiner	Art Unit
	Raeann Gorden	3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 June 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5 and 7-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,5 and 7-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Ranges are larger than the base claim ranges.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, and 7-16 are rejected under 35 U.S.C. 103(a) as obvious over Sugimoto (6,390,936) in view of Yoshida et al (JP 2000-271249). Regarding claims 1 and 2, Sugimoto discloses a golf ball comprising a center, an intermediate layer, and a cover. The intermediate layer has a thickness of 2.5 (table 4). Sugimoto discloses the intermediate layer has a Shore D hardness from 53 to 64 (col. 5, lines 40-43). The hardness of the intermediate layer is higher than the surface of the center (table 4). The center has a central hardness from 65 to 80 JIS-C (41-53 Shore D) and a surface hardness from 65 to 85 (41-57 Shore D). The center core hardness is slightly higher

but borders applicant's range. However, Yoshida teaches a three-piece golf ball comprising a center with a hardness from 55 to 77 JIS-C or 34 to 45 Shore D. With respect to the flexural modulus, applicant claims the flex modulus of the intermediate layer is lower than the flex modulus of the cover layer. The intermediate layer has a specific gravity from 1.1 to 1.35. Since the present invention and the Sugimoto disclose identical ingredients for the two layers the flex modulus values would also overlap or be the same. Sugimoto discloses the intermediate layer is made from polybutadiene, co-crosslinking agent, organic peroxide and a filler. The co-crosslinking agent may be a metal (magnesium or zinc) salt of α , β -unsaturated carboxylic acid. Regarding claim 3, Sugimoto discloses a cover with a Shore D hardness from 45 to 60 (col. 6, lines 62-63). The cover has a thickness from 1.0 to 3.0 mm. Applicant discloses cover materials may be Himilan 1605, 1706, 1855, etc. and Sugimoto discloses the same cover materials, therefore the flexural modulus values would be the same. Regarding claim 5, the center has a central hardness from 65 to 80 JIS-C (41-53 Shore D) and a surface hardness from 65 to 85 (41-57 Shore D). Regarding claims 7 and 8, the center has a diameter from 29 to 38 mm and the core has a diameter from 38 to 41 mm. Therefor, the intermediate layer thickness is satisfied. The intermediate layer has a hardness from 80 to 95 (53-64 Shore D). Regarding claims 9 and 10, the intermediate layer has a specific gravity from 1.1 to 1.35. Since the present invention and Sugimoto disclose identical ingredients for the intermediate layer the flex modulus values would also overlap or be the same. Regarding claims 11-13, the intermediate layer is higher than the cover layer by 5 Shore D units (table 4, ex 1 and 3). Regarding claim 14, Sugimoto discloses the

cover layer has a Shore D hardness from 45 to 60. Applicant discloses cover materials may be Himilan 1605, 1706, 1855, etc. and Sugimoto discloses the same cover materials, therefore the flexural modulus values would be the same. Regarding claims 15 and 16, since the present invention and the Sugimoto disclose identical ingredients for the two layers the flex modulus values would also overlap or be the same. One of ordinary skill in the art would vary the core hardness for optimal performance.

Response to Arguments

Applicant's arguments with respect to claims 1-3, 5, and 7-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is 571-272-4409. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rg
June 22, 2005



RAEANN GORDEN
PRIMARY EXAMINER